



**THE CONSTRUCTION AND DEMOLITION
DEBRIS FACILITY STUDY
COMMITTEE REPORT**
September 2005

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The Construction and Demolition Debris Study Committee, created in House Bill 66, Ohio's operating budget, was tasked with studying the current laws of the state of Ohio as they relate to construction and demolition debris facilities. Further, the committee is charged with making recommendations to the General Assembly regarding changes to those laws to ensure that the citizens of Ohio and the environment are jointly protected, while continuing to allow disposal of construction and demolition debris in a responsible and economically feasible manner.

The 13 member committee was chaired by Representative Thom Collier, chairman of the House Economic Development and Environment Committee and vice-chaired by Senator Tom Niehaus, chairman of the Senate Environment and Natural Resources Committee. The remaining members of the committee were comprised of legislators, industry, environmental, engineering and licensing authority representatives.

The committee met seven times between August 9 and September 27 of 2005 and heard from a wide variety of interested parties including consumer groups, government agencies, engineers and environmental groups. The committee members also toured several facilities around the state and held lengthy discussions on the issues placed before the committee.

Throughout the committee process, members felt it was imperative to protect the environment and Ohioans from the impact of improper management or operation of construction and demolition debris facilities. At the same time, the members recognized the legitimate economic purpose that these facilities serve and also the restrictions placed on the state's regulation through the interstate commerce clause of the United States Constitution. Balancing these two competing interests became the committee's main objective.

The attached report is meant to serve as recommendations to improve the laws governing construction and demolition debris landfills. While there are numerous other aspects not addressed in this report, these are items that the members felt were the most immediate and should be addressed as soon as possible. It is the goal of the committee that these recommendations, based on a majority consensus reached by the study committee, be used to update the laws of the state of Ohio concerning these facilities, to allow for continued use of a vital economic engine while safeguarding the environment and residents of our communities.

BACKGROUND INFORMATION

The committee concluded that licensing authorities must have access to background information in order to adequately evaluate an application for a new facility. New disclosure requirements should include both the applicant and the operator, if different from the applicant.

These disclosure requirements should be modeled after the information concentrated animal feeding operations (CAFO) are required to provide to the Ohio Department of Agriculture, as specified in the Ohio Revised Code 903.05.

The background information should include, but is not limited to (1) a list of all construction and demolition debris facilities that the owner/operator has or is operating in Ohio, elsewhere in the United States and/or outside the country (2) a list of all administrative enforcement orders issued to the owner/operator (3) a list of all civil actions in which the owner/operator was determined to be liable and all criminal actions in which the owner/operator pleaded guilty, or was convicted in connection with any violation of state or federal environmental laws pertaining to the operation of construction and demolition debris facilities and (4) a list of any violation of environmental laws in other countries that the owner/operator is operating outside the United States.

All lists should include information from the five-year period immediately preceding the submission of the application. Utilization of this type of information will be essential to ensuring only those owners/operators that will respect Ohio law be allowed to operate in Ohio.

PERMITS TO INSTALL

The committee recommends that the Ohio Environmental Protection Agency (EPA) should establish a uniform Permit to Install (PTI) application that all licensing authorities would utilize. The PTI application and permit would serve as documentation of the applicant's intent to develop the property and contain the plans for final completion. By using this initial permit, the licensing authority is able to understand the layout of the entire facility once the facility has reached its approved capacity.

If an approved health district needs additional expertise when reviewing an application for a permit to install, the health district may request that the Ohio EPA review and issue the PTI.

After being cleared for initial waste acceptance under the PTI, the owner must apply for a Permit to Operate (PTO) or an annual license. This permit/license would allow the annual operation of the specific portions of the landfill throughout the course of its operation.

All requirements contained in the PTI must be met and inspected before the facility can apply for a PTO/license. The committee believes this process will promote uniformity across the state regardless of whether the Ohio EPA or the local board of health is the licensing authority and will also ensure that all new facilities are constructed to handle construction and demolition debris and the environmental impacts these materials may bring.

PUBLIC HEARINGS AND NOTICE

Throughout the committee process, the members thoroughly deliberated on a public hearing requirement. The members decided it was crucial that the public be informed and have an opportunity to comment on future proposed landfill sites.

The committee also agreed that after submission of an application for a PTI for a new construction and demolition debris facility but before issuance of such a permit, the applicant should hold a public meeting in the township or Municipal Corporation, whichever is applicable, where the proposed facility is to be located.

At least 30 days prior to the public meeting, the applicant should provide notice of the time, day and location of the public meeting in a newspaper of general circulation in the locality of the proposed facility. Additionally, the applicant should mail a copy, either by certified or regular mail, of the notice to the adjacent property owners of the proposed facility and to the director or board of health – whichever is applicable.

OPERATIONAL PLANS

The committee heard ample testimony regarding the operation and management of the currently licensed facilities in Ohio, as well as previously licensed facilities that have since been closed. The committee agreed most of the problems that occur at these types of facilities are due to faulty operation of the facility and can be easily prevented by using best management practices.

Therefore, the committee recommends that operational plans for each facility must include best management practices. In addition, the committee recommends that specific penalties be defined by the Legislature for violations of the operational plan. The inclusion of best management practices allows each individual facility to identify which procedures will best benefit that facility, while ensuring that all types of acceptable material will be disposed of in a proper and safe manner.

Additionally, the committee deemed it essential that penalties for violations of the operational plan be included, ensuring enforcement for any resulting violations.

FIRE SAFETY

Construction and demolition debris facilities have had a small number of problems in the past with underground fires that can occur at poorly managed facilities. The committee concluded the key to preventing and responding to these types of fires is through proper education and training.

The committee recommends that each facility's operational plan should include proper procedures in case of a fire. Additionally, the facility should notify local fire officials on an annual basis as to what those procedures are.

If the employees of the facility and the first responders are all adequately trained and educated regarding underground fires, facilities can work to prevent and control future fires.

MANDATORY TRAINING PROGRAM

In an effort to ensure that operators are up-to-date on changes in law and best management practices, the committee requests that a mandatory training and certification program be implemented.

The members also recommend that the continuing education requirement should be a requirement of the certification program.

The program would be sponsored by various approved industry groups around the state on at least an annual basis and should be in consultation with the Ohio EPA. By partnering knowledgeable industry organizations with the Ohio EPA, the certification process can serve as a valuable tool to operators, resulting in safer and more efficient facilities across the state.

PULVERIZED AND SHREDDED WASTE

Throughout the course of the committee proceedings, the committee had extensive discussions on the acceptance of pulverized and shredded waste. Pulverized and/or shredded waste is waste that is generally unrecognizable and severely limits the ability of operators or inspectors to know the waste is actually acceptable material for a construction and demolition debris facility. This type of waste is currently illegal to accept at a construction and demolition debris facility, but only by rule of the Ohio EPA.

It was repeatedly stated throughout the committee process that if the pulverized and shredded material contains high concentrations of crushed gypsum board, or dry wall, this material, under specific conditions, has the potential to create hydrogen sulfide gas. This gas is responsible for the foul smell often described as a “rotten egg” smell and can be harmful to human health in large amounts.

As a result, the committee agreed that pulverized and shredded waste should not be accepted at construction and demolition debris facilities because of the potential to cause odor, gas and other health and nuisance problems.

However, the members of the committee left room for one exception. The committee agreed that shredded material could be accepted in situations where the risk to the public, for both health and nuisance problems, would be minimal.

Specifically, instances where pulverized and shredded material has been pre-certified – meaning it was inspected at the point of demolition and contains no solid waste or otherwise unacceptable material – is a recommended exception to this rule. In these cases, the licensing authority would be required to inspect and certify the material and if the site is found to be in violation, the appropriate authority would have the ability to immediately revoke any previous certification.

LEACHATE MONITORING

The committee heard much testimony regarding the dangers of water co-mingling with waste creating leachate and the costs that are connected with leachate collection at construction and demolition debris sites. Consequently, the committee recommends that current leachate system requirements and leachate testing requirements be modified.

Current law requires the annual testing of construction and demolition debris leachate samples for 19 contaminants. The committee recommends the samples be tested for 64 contaminants and annual testing is sufficient.

If a representative leachate sample cannot be collected, the committee recommends that the facility be required to have a ground water monitoring system and sample the ground water for the same set of 64 contaminants.

Additionally, if the leachate testing identifies any contaminants that are not typical of construction and demolition debris leachate, those parameters should be added to the ground water monitoring program. Testing for a wider array of contaminants will ensure public safety.

GROUND WATER MONITORING

The committee recommends that the ground water monitoring system at construction and demolition debris facilities must be capable of determining if contaminants have been released into the ground water.

In addition, the ground water monitoring report, prepared by a qualified ground water scientist, must include (1) a determination of whether or not the ground water at the facility is being impacted (2) a list of items of concern and (3) recommendations for further investigation. These determinations will further enhance protection for the public through early detection of a release into the surrounding environment.

The committee further recommends that Ohio EPA should develop provisions in rule for assessment and corrective action should an item of concern arise and need to be addressed, either while in operation or during the post closure period.

FINANCIAL ASSURANCE FOR CLOSURE

Another problem facing the state, with regard to the disposal of construction and demolition debris is enforcing proper closure of a facility once either its capacity has been reached or the facility fails to be in substantial compliance with Ohio law.

Past experience has proven that it can be difficult to collect proper funding for closure once a poorly managed facility has been abandoned. Additionally, it can be unreasonable to require the same bond from every owner as the individual operations are unique. For example, a facility that has sufficient material for proper capping on-site would require less money per-acre to close than a facility that has to transport cover material into the facility.

Therefore, the committee is recommending a base bond of \$13,000 per acre together with the ability of the licensing authority to adjust the bond for each facility on an individual basis. The flexible bonding will be based on an annual cost estimate completed by the owner/operator and reviewed and either approved or denied by the licensing authority.

If the owner/operator and licensing authority disagree about the necessary level of bonding, an appeal would be heard by the Environmental Review Appeals Commission (ERAC). However, the facility could continue to operate, as long as the base bonding is in place until ERAC makes a decision on the appeal.

POST CLOSURE CARE

After proper closure requirements have been met, the committee proposes the owner continue to maintain the facility for at least a period of five years to ensure that no additional health or safety concerns arise.

The committee recommends that minimum bonding for five years post closure care is necessary and that the owner/operator must take care of the property, including proper monitoring of the facility and its perimeter, for the entire five-year period.

Additionally, as a last resort, the committee believes the purposes for which the Hazardous Waste Cleanup Fund may be used should be modified to include construction and demolition debris sites. If the fund is used often for the remediation of construction and demolition debris sites, the committee would propose assessing an additional fee to the disposal of construction and demolition debris to replenish the fund.

ADDITIONAL SITING CRITERIA

One of the most contentious issues debated by this study committee was the issue of siting criteria. Current Ohio law only requires two siting criteria for construction and demolition debris facilities:

- 1) A facility cannot be sited within a 100-year flood plain
- 2) A facility cannot be sited within the boundaries of a sole-source aquifer

However, most members of the committee concluded that these two criteria, while important, are not sufficient to adequately protect public health.

The committee believes that set-backs should be added to the siting criteria for new facilities. These recommended set-backs are minimums and could be increased if deemed necessary by the licensing authority. The committee recommends the limits of debris-where the waste can be placed – shall be at least:

- 500 feet from an occupied dwelling
- 500 feet from a National Park or recreation area
- 500 feet from state parks
- 500 feet from a state nature preserve or state wild, scenic or recreational river
- 100 feet from a category 3 wetland
- 100 feet from a perennial stream (as defined by the U.S. Geological Survey 7^{1/2} minute quadrangle topographic maps)
- 100 feet from the facility property line
- 500 feet from a residential water supply well, that is in place at the time of the permit application, unless one of the following criteria are met
 - The in-situ and/or added geologic material separating the uppermost aquifer from the limits of debris placement shall be at least five feet of soils with a maximum permeability of 1×10^{-5} cm/sec and have a permeability equivalent to at least two feet of soil with a maximum permeability of 1×10^{-6} cm/sec. None of the geologic material to be included as the minimum five feet of isolation material shall have a permeability greater than 1×10^{-5} .
 - The well is located upgradient of the limits of debris
 - The well is hydrologically separated from the limits of debris
 - The well is controlled by the landfill owner or operator

Additional set-backs for facilities that are in existence today, but are expanding beyond the current operating permit, would be expected to adhere to the same standards as the new facilities.

However, the members of the committee understand the difficulties that may arise when holding expanding facilities to the same standard as newly constructed facilities. Therefore, the committee recommends flexibility for the local licensing authority to grant exemptions either more or less strict on a case-by-case basis.

It is the opinion of this committee that an owner who purchases new land, contiguous to a currently operated facility be considered a new applicant for the purposes of set-back criteria.

Other facility features that should also be required of new facilities include:

- Construct and maintain perimeter all-weather access roads within the facility boundary in such a manner as to withstand the anticipated degree of use with minimum erosion and dust generation.
- Vegetated earthen berms or equivalent, minimum of 6 feet high, for a visual barrier if residences within 500 feet of limits of debris.
- Surface water drainage and sediment control structures as required.

MODIFY AUTHORITY OF THE LOCAL HEALTH BOARDS TO ISSUE AN EXEMPTION

The committee extensively discussed the issue of local boards of health issuing exemptions. These local entities are allowed in current law to issue exemptions to a facility based on individual need. The committee strongly believes that all siting criteria contained in this report and in current law are important to protect public health and safety and should be abided by.

However, the committee does believe there are legitimate situations in which exemptions are and should be properly issued. It is the recommendation of this committee that the local boards of health be able to issue exemptions but only with the knowledge and consent of the Ohio EPA.

The local board of health should notify the Ohio EPA in advance of issuance and the agency then has 30 days to concur or deny the exemption. By allowing the local government to make the initial decision regarding the validity of a particular exemption, we afford the local community the opportunity to affect the situation, while still utilizing the expertise and resources of the state.

REQUIRED CERTIFICATION BY CONSTRUCTION AND DEMOLITION DEBRIS TRANSFER FACILITIES

One of the biggest problems facing construction and demolition debris landfills in Ohio is out-of-state waste. The United States Supreme Court has long since ruled such waste is “commerce” and therefore regulated under the interstate commerce clause of the U.S. Constitution. As a result, the state cannot place any restrictions on waste coming in from outside of Ohio without placing those same restrictions on waste generated within the state.

Due to the interstate commerce clause, Ohio has struggled to control the types of waste coming into the state. Consequently, the committee strongly recommends a certification program be put in place to require construction and demolition debris transfer stations to certify that the material coming into the facility is in fact acceptable material for a construction and demolition debris facility.

If a transfer facility is found in violation of this requirement, enforcement actions would occur, including the possibility that the facility would lose its ability to do business with Ohio. This requirement, applying equally to in-state and out-of-state transfer stations, will allow the licensing authority to track problem materials and will provide a mechanism to enforce violations of Ohio law.

CENTRAL DATABASE

The committee advises that the Ohio EPA should keep a central database of information regarding all construction and demolition debris facilities in Ohio. The database should contain information from the annual survey of approved health districts, the annual report of all construction and demolition debris facilities, and leachate and groundwater quality data. This information would then be made available to local licensing authorities.

The database will allow all licensing authorities access to information regarding the facilities, owners or operators located around the state and would encourage cooperation and collaboration between the local boards of health and the Ohio EPA.

This committee examined substantial amounts of data and information over the eight weeks of the committee's proceedings. Though the members took into account all materials while creating this report, the committee endeavored to base these recommendations on sound, scientific data and by doing so the committee was able to reach unanimous agreement on almost every recommendation contained in this report.

Throughout the course of these hearings, the committee heard testimony and received information from engineering and environmental professionals alike. All of these authorities agreed, though experts are still learning more about the interaction that occurs with this type of material, if managed properly it can be every bit as safe as originally believed.

While there were numerous issues that were debated and discussed, those contained in this report appeared to the committee to be most pressing. At the time that this committee was created, a moratorium was placed on construction and demolition debris landfills to allow the committee time to study the current regulations for such facilities and to make recommendations for the construction of any new facilities.

The moratorium will expire on December 31, 2005 and the members of this committee recommend the General Assembly should immediately consider for legislative action the recommendations contained in this report.

For the duration of its existence, this committee strived to balance all competing information to create reasonable regulations, while above all else protecting public health and safety.

COMMITTEE MEMBERS

CONSTRUCTION DEMOLITION DEBRIS STUDY COUNCIL MEMBERS

Three members of the Ohio House of Representatives appointed by the Speaker of the House:

- Representative Thom Collier, Chairman (House District 90)
- Representative John Hagan (House District 50)
- Representative Sandra Stabile Harwood (House District 65)

Three members of the Ohio Senate appointed by the President of the Senate:

- Senator Tom Niehaus, Vice-Chair (Senate District 14)
- Senator Robert Spada (Senate District 24)
- Senator Marc Dann (Senate District 32)

The director of the Ohio Environmental Protection Agency or the director's designee:

- Laura Powell, Assistant Director, Ohio Environmental Protection Agency

One member representing health districts in the state appointed by the governor:

- Erv Ball – Cuyahoga County Board of Health

Three members representing the construction and demolition debris industry in the state appointed by the Governor, one of whom shall be the owner of both a construction and demolition debris facility and a solid waste disposal facility:

- Kathy Trent – Waste Management
- Dave Loewendick – Loewendick and Sons Inc.
- Mike Cyphert - Walter Haverfield

Two members representing environmental consulting organizations or firms in the state appointed by the governor:

- Steve Bowser – Bowser-Morner, Inc.
- Herbert B. Eagon, Jr. – Eagon & Associates

COMMITTEE MEETING DATES AND TOPICS

Construction Demolition Debris Facility Study Committee Representative Thom Collier, Chairman

August 9, 2005- The first meeting of the Construction Demolition Debris Facility Study Committee was a planning meeting to discuss the goals and objectives of the Committee. The chairman announced that at least one of the meetings would be held at or near a facility.

August 23, 2005- The committee heard from three presenters, one from Laura Powell of the EPA, the second from Herb Eagon, Eagon and Associates and the third was from Steve Bowser, Bowser-Morner Consulting. All three presenters were members of the committee; they each shared their expertise as it relates to Construction Demolition Debris industry.

August 30, 2005- The committee took a tour of Frank Road C&D located in southern Franklin County. This facility was owned by Loewendick & Sons. The committee members were able to ask questions C&DD professionals on the tour.

September 6, 2005- The committee held a “roundtable discussion” with no testimony to form a list of items or concerns that should be included in the recommendations. From this discussion, the committee formed a list of concepts for use at future meetings.

September 13, 2005- The committee heard from Bill Fischbein, Deputy Director of Legal for the EPA. He shared information with the committee on how the EPA enforcement section works with regard to CDD facilities. The committee heard from Michael Taylor, Executive Director of The National Demolition Association. Mr. Taylor spoke about the Construction Demolition Debris industry. He also shared information on CDD laws of other states.

September 20, 2005- After a brief committee meeting at Creekside Golf Dome in Girard, Ohio the CDD committee took a tour of three different sites in Trumbull County. The Lafarge facility in Lordstown, Ohio, the LAS Recycling facility in Youngstown, Ohio and the Warren Recycling in Warren, Ohio.

September 27, 2005 The committee met again to discuss past meetings and tours, as well as to complete a list of consensus items to be reflected in a final report.



Sandra Stabile Harwood
State Representative, 65th House District

MEMO

September 30, 2005

To: Representative Thom Collier, Chairman, C&DD Study Committee

From: Representative Sandra Stabile Harwood, 65th House District

Reference: Response to C&DD Study Committee Report

I have received your draft of the C&DD Study Committee Report. I commend you for your leadership on this matter and thank staff and other members of the committee for their commitment and diligence during this task. A great deal of work was done and much accomplished in working towards ensuring the safety and welfare of our citizens and the environment within such a limited time frame. I believe we have achieved much and made great strides. In several areas however, as noted in committee, I feel the recommendations do not go far enough.

Based on the limited amount of time I've had to review the report and respond, I would like to make the following comments which include but are not limited to the following: I believe the report should reflect 1) my objections to the siting criteria; 2) my objections that penalties for repeated violations were not increased to felonies; and 3) my objection that there was not a committee recommendation to extend the moratorium due to the short time we will be in session prior to January 1, 2006.

In light of the recent Ohio EPA analysis, which confirmed the presence of dozens of toxic chemicals among leachate samples collected--including dangerously high levels of arsenic and lead--I feel even more strongly that the siting criteria is inadequate to protect the public health, safety and welfare of our citizens and our environment.

As I stated in my memo dated Sept 6, 2005, ideally, I believe the best solution to the problems we have faced in regulating CDD landfills would be best addressed if all waste were treated as solid waste. Although the committee made great strides in making recommendations in many areas, the recent EPA report reaffirms my belief that the siting criteria is woefully inadequate. I again strongly recommend at minimum 1,000 feet from all occupied dwellings, parks, recreational areas wetlands streams, water supplies etc. and that this distance could only be increased based on circumstances at the discretion of the licensing authority.

In addition to the above I believe the recommendations should have included the following:

- 1) Under **Basic Background Checks**: It was not clear if the disclosure requirements would require fingerprints as is required in many other basic background checks.

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District:
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- 2) Under **Public Hearing and Notice**: It is not clear as to how the information and input acquired during the public notice and hearing should be put to use by the Director in evaluating the social and economic impact to the community and the granting or denial of the application.
- 3) Under **Operational Plans**: I believe the penalty for violations of operational plans should be more specific in the report.
- 4) Under **Mandatory Training**: I believe the report should have clearly stated that certification must be obtained before a facility can begin operation. In addition the report should have laid out who the accrediting agency will be that has final say in approval of the curriculum for the mandatory training and certification program.
- 5) Under **Pulverized and Shredded Waste**: I objected to the fact that the penalties for repeated violation of accepting unidentifiable waste were not increased to a felony.
- 6) Under **Leachate Collection**: I thought in committee we made a recommendation that both during the post closure period as well as during operation of a facility that there would be testing of leachate and ground water monitoring and Ohio EPA would develop provisions in rule for assessment and immediate corrective action. For example, if you test for a specific and are at unacceptable levels then you must immediately take a specific remedial action. The recent EPA report/analysis reaffirms my recommendation as stated in my September 6, 2005 memo of recommendations that to protect our citizens and environment there should be no recirculation of leachate. Even the best of practices cannot eliminate the fact that we are going to find contaminants (for example mercury in thermometers placed in buildings etc., in addition to other contaminants.
- 6) **Explosive Gas Monitoring**: I also feel that we should have included a requirement for explosive gas monitoring to prevent future emergency situations.
- 7) **Bond Language**: I believe that we should have also made a recommendation that the language in OAC 3745.400-12 should be looked at to assure that bond money is immediately available in the event a facility fails to comply. It is my understanding that there is a lengthy time period as the Code is written now before funds are available.

This memo is not all-inclusive but a good beginning for further recommendations. It is unfortunate that we did not have more time to address some of these issues in depth. Again I thank you for your leadership and sincerity in this matter. It has been a pleasure working with you and hope we can continue to work together to further improve the regulation of CDD facilities to ensure the protection of the citizens of Ohio and the environment while managing the disposal of construction and demolition debris in a responsible and feasible manner.



SENATOR MARC DANN
32nd Ohio Senate District

Committees:

Agriculture
Highways & Transportation
Judiciary-Civil Justice
 Ranking Minority Member
Judiciary-Criminal Justice,
 Ranking Minority Member
Ways & Means and
 Economic Development

September 30, 2005

Chairman Thom Collier
Riffe Center
77 South High Street
Columbus, OH 43215-6111

Dear Chairman Collier:

I am thoroughly pleased the Construction and Demolition Debris study committee was able to reach a consensus on numerous issues. In a very short amount of time, the committee has developed proposed regulations for CDD landfills. This is an important issue for many of our constituents, and if enacted, these regulations will ensure a greater quality of life for those who live near these landfills.

However, I still have three concerns, and cannot concur with the committee regarding those concerns. First, I strongly believe that the proposed citing criteria are still not adequate. The committee proposed that a new landfill cannot be within 500 feet of an occupied dwelling. This is simply insufficient. Ohio's current citing law is not adequate to protect groundwater from contamination by CDD waste. There is still no required minimum setback distance from a private water supply well, lake, or stream. Along with the water quality concerns, there are quality of life issues as well. Residents should not have to endure the usually noisy operation of a landfill. Although many landfill operators have found ways to decrease the noise (e.g. using trees as a buffer between residences and landfills), some do not. For these reasons, I recommend a 5000 feet distance between a CDD landfill and any occupied residence.

The second issue is criminalization of the acceptance of pulverized waste. Unless there is a very detailed, specific and aggressive recertification program, I would strongly oppose

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any consideration of allowing any shredded or pulverized material to come into the state. Due to the nature of pulverized waste, its exact makeup cannot be determined. This can pose great risks to those residents who live near landfills where pulverized waste is accepted. Therefore, it is necessary that we as a committee recommend criminalizing the acceptance of pulverized waste to deter landfill operators from accepting it. My proposal would be that in order to be prosecuted, the operator would be required to have the criminal intent to accept the pulverized waste, as well as criminally accept the waste. Put simply, those who mistakenly accepted pulverized waste would not be subject to this law. For those who do possess the necessary intent and acted accordingly, each acceptance would be subject to a harsher penalty (first offense would require a warning, each subsequent offense would be a misdemeanor or felony). Although the penalty could be harsh, the health and welfare of our constituents is priceless.

Lastly, I have great concerns regarding the issue of licensure. Currently, only facilities are required to be licensed by the state. This is at best, inadequate, and at worst, potentially jeopardizing to the citizens of Ohio. We entrust landfill operators essentially with our health and welfare. Because of the great responsibility we entrust to them, each landfill operator should be licensed by the state of Ohio.

I have enclosed a copy of Illinois' solid waste regulations. I feel that they should serve as a model to the state of Ohio.

Despite my reservations, I am generally pleased with the recommendations of the committee and the final committee report. We have made great strides in the short amount of time we were given to take on this daunting task. I look forward to working to get the committee's recommendations to the Senate floor as quickly as possible, and will do what is necessary to ensure our recommendations ultimately become enacted.

Respectfully,



Senator Marc Dann

Member, Construction and Demolition Debris Study Committee

Enclosure